

Lofgren Opposes USA PATRIOT Act Conference Report

Calls for Time to Address Civil Rights and Privacy Concerns in BillMedia Contact: Kyra Jennings, 202.225.3072

Washington, DC – Rep. Zoe Lofgren (D-San Jose) delivered the following statement today on the House floor in opposition to the Conference Report on Reauthorization of the USA PATRIOT Act:

[As prepared for delivery]

"Mr. Speaker, most observers agree that in 2001, when we passed the USA PATRIOT Act, the most important element was the new ability to share information between criminal investigators and intelligence officials. I supported authorizing that information sharing capability in the original PATRIOT Act, and I support its reauthorization today. However, there are other elements of the Act that, although less important in keeping us safe, are more contentious because of questions about their implementation. This Conference Report on Reauthorization of the USA PATRIOT Act fails in important ways to deal with those issues.

"Following the attacks of 9/11, this Congress passed the USA PATRIOT Act to give our law enforcement and intelligence agencies new powers to fight terrorism. I voted for that law, but only after securing support for sunset provisions that allowed this Congress to revisit these issues under less trying circumstances.

"Congress has not done its job in providing the thorough review we need of the PATRIOT Act. Nor has the Bush Administration done its job in providing us the information we need to properly evaluate the PATRIOT Act. I have repeatedly sought access from the Department of Justice to the National Security Letters or NSLs it has issued under section 505 of the Act, and underlying materials regarding its use of the material witness statute. I have been seeking access to these materials for over six months now, with no response from DOJ. I wrote to them again last month seeking this information, and again received no response. This is vital information about DOJ's actual use of PATRIOT Act powers, information which DOJ steadfastly refuses to provide. Yet with this conference report Congress blindly reauthorizes and makes permanent many of these same powers.

"In fact, through the cracks in DOJ's veil of secrecy, we've begun to find some information about the PATRIOT Act. We've found out from whistleblowers that the FBI issues more than 30,000 National Security Letters each year. These are tens of thousands of letters, never reviewed by a judge, demanding information on countless people, the vast majority of whom may be Americans innocent of any terrorist activity. We don't know how many private lives are being swept up in these NSLs, because DOJ won't tell us.

"This bill does not correct the problems with National Security Letters. It creates a new process for judicial review, but leaves that review subject to an extremely vague standard. There are no requirements for law enforcement to "minimize" its collection of NSLs – that is, there's no requirement for DOJ to segregate the vast amount of information collected on innocent Americans unconnected to any terrorist activity. An audit is provided which would allow DOJ to freely continue stockpiling information on Americans without providing any standard.

"This bill also adopts too weak a standard for law enforcement to engage in business records searches under section 215 of the PATRIOT Act. The Senate passed unanimously what I thought was a very reasonable standard for law enforcement to meet in order to conduct these searches. The Senate required that these searches actually be relevant to an ongoing terrorism investigation and related to the activities of an agent of a foreign power. But the Conference Report adopts a presumption of relevance that would essentially tie judges' hands and force them to grant any requested searches.

"Adoption of four-year, rather than seven-year, sunsets on three provisions regarding business records searches, roving wiretaps, and so-called "lone wolf" terrorists acting as agents of foreign powers is positive. Frankly, I would have liked to see four-year sunsets applied to more provisions of the PATRIOT Act, such as the provisions regarding NSLs. I believe these sunsets provide Congress an important opportunity to review how the PATRIOT Act is actually being used. Given how reluctant DOJ has been to share information with us, these sunsets really provide the main source of leverage Congress has over the Department of Justice to obtain information we should be provided as an equal branch of government.

"Mr. Speaker, I'm very disappointed that this legislation has removed the provisions we passed in the House providing for additional funding for first-responders. This is vitally needed funding that local first-responders need in the event of another terrorist attack or other disaster. This Conference report drops all of these provisions passed by the House.

"For these reasons, Mr. Speaker, I urge my colleagues to join me in voting against this Conference Report. Instead of rushing this bill to conclusion, we should give ourselves the time we need to get the PATRIOT Act right. I, along with some of my colleagues, have introduced legislation that would allow us to reauthorize the existing PATRIOT Act

authorities for another three months, to take the time we need to correct the many deficiencies still remaining in this Conference Report. I urge that, instead of voting for a bad bill in order to meet an arbitrary deadline, my colleagues join me in voting for more time to turn this into a better bill.”